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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,461	07/31/2001	James K. Weixel	00-5017	3578

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,461

Applicant(s)

WEIXEL, JAMES K.

Examiner

James S. McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on June 10, 2005, wherein:
claims 1-5 and 7-32 are pending and
claims 1, 8, 11, 17, 24, 28, and 30 have been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-12 and 15-32 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,991,749 (hereinafter "Morrill").

Regarding **claims 1-5, 7, and 8**, Morrill discloses a method and system configured to facilitate ordering of goods or services from a vendor by a customer, comprising: one or more base stations ("cell antenna", see column 2, lines 29-31) configured to receive an abbreviated dialing sequence that corresponds to an order from a mobile terminal used by the customer (for example, see column 6, line 63 - column 7, line 26); and a processing center ("CPU", see column 2, lines 29-31) coupled between the one or more base stations and the vendor ("payee", see column 5, lines 51-60) and configured to receive the abbreviated dialing sequence, to transmit customer information (it is inherent that the vendor received customer identification information because the vendor is capable of directly billing the user, see column 7, lines 63-65) to the

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vendor relating to the order, and to bill a wireless account of the customer for a monetary amount of the order (see column 3, lines 20-35); customer preferences are stored in a database (see column 7, lines 43-46); posting abbreviated dialing sequence codes corresponding to the vendor on signs (see column 7, lines 14-16); the location of the mobile terminal is determined (see paragraph bridging columns 6-7, wherein the facility ID number is an indication of the user's location; see also column 4, line 34); and the vendor is a restaurant and the customer is a motorist (see column 3, lines 46-47).

Additional features disclosed by Morrill as required by claims 9-12 and 15-32, that were not addressed above include: billing a credit card or debit card of the customer for a monetary amount of the order (see column 4, lines 16-24); entering into an agreement with the vendor to provide the abbreviated dialing service to the vendor (see column 6, lines 47-62); collecting revenue from the vendor according to the agreement ("transaction fees", see column 6, lines 59-62); and acquiring a preferred manner of payment from the customer (see column 4, lines 17-38).

Regarding amendment to claims 1, 8, 17, 24, 28, and 30 on 2/11/05, Morrill discloses transmitting customer information to a vendor, wherein the location of the customer is remote from the vendor (see column 3, lines 20-21; "permits face-to-face or remote transactions").

Regarding **amendment to claims 1, 8, 11, 17, 24, 28, and 30 on 6/10/05**, Morrill discloses a vendor having multiple locations (see paragraph bridging columns 6-7; "Multiple facilities with different rates") and the order is initiated and prepared when the customer is remote from the vendor location to reduce wait time of the customer (see column 6, lines 20-25; "This application of the procedure speeds through-put into and out of the facility", underline added for emphasis by Examiner). Additionally, Morrill discloses a processing center that

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determines from the remote location the one of the multiple vendor locations to which to transmit customer information (see paragraph bridging columns 6-7, “It is this short-cut key sequence which tells the mobile phone service provider’s CPU that this is an entrance/exit parking fee transaction for this particular parking facility”, underline added for emphasis by Examiner).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrill in view of U.S. Patent No. 5,327,144 (hereinafter “Stilp”).

Morrill disclose all the claimed elements as set forth above, but fails to explicitly disclose calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information and global positioning system information.

Stilp teaches the use of calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information (see paragraph bridging columns 6-7) and global positioning system information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Morrill with time delay cellular phone location determination taught by

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Stilp, because determining the location of a user will allow the user to enter fewer codes but will locate the proper vendor.

Response to Arguments

6. Applicant's arguments filed June 10, 2005, have been fully considered but they are not persuasive.

On page 16, first full paragraph, Applicant argues that Morrill fails to disclose multiple vendor locations. The Examiner respectfully disagrees. As set forth above in section 3, Morrill discloses distinguishing between "multiple facilities" (see paragraph bridging columns 6-7). In the same paragraph, Applicant argues that Morrill fails to address the time-delay problem. In claim 1, the limitation "to reduce wait time of the customer" is functional language and is given little patentable weight. Despite the fact that the Examiner has given the functional limitation little patentable weight, Morrill explicitly discloses that a benefit of the cellular phone payment system is to speed through-put (see column 6, lines 20-25).

Beginning on page 17, Applicant lists four limitations that are allegedly lacking from the prior art. First, Applicant repeats his assertion that Morrill fails to disclose multiple vendors. As set forth above in section 3, Morrill discloses distinguishing between "multiple facilities" (see paragraph bridging columns 6-7). Secondly, Applicant argues that Morrill fails to disclose preparation of the order being initiated at one of the vendor locations by the vendor before the customer arrives at the one of the vendor locations. As set forth in the previous Office Action, the customer is remote from the parking facility before entering the facility by passing through a computerized gate. Thirdly, Applicant argues that Morrill fails to disclose to reduce wait time of

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the customer. As set forth above, the limitation “to reduce wait time of the customer” is functional language and is given little patentable weight. Despite the fact that the Examiner has given the functional limitation little patentable weight, Morrill explicitly discloses that a benefit of the cellular phone payment system is to speed through-put (see column 6, lines 20-25).

Finally, Applicant argues that Morrill fails to disclose a processing center configured to determine from the remote location the one of the multiple vendor locations. As set forth above in section 3, Morrill discloses a processing center that determines from the remote location the one of the multiple vendor locations to which to transmit customer information (see paragraph bridging columns 6-7, “It is this short-cut key sequence which tells the mobile phone service provider’s CPU that this is an entrance/exit parking fee transaction for this particular parking facility”, underline added for emphasis by Examiner).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

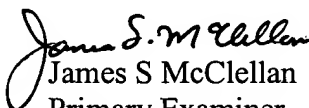
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statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. McClellan whose telephone number is (571) 272-6786. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James S McClellan
Primary Examiner
Art Unit 3627

jsm
8/9/05